


**CITY OF CALEXICO
CITY COUNCIL
AGENDA REPORT**

SUBJECT: **Building Permit Contractor Requirements & Owner-Builder Exemption**

AGENDA DATE: December 2 , 2008

PREPARED BY: Armando G. Villa, Director of Planning & Development Services 

**APPROVED FOR
AGENDA BY:** Ralph Velez, City Manager 

RECOMMENDATION: Receive and File.

FISCAL IMPACT: None.

BACKGROUND INFORMATION:

This report identifies various Codes which are enforced by the City's Building Department (*Building & Safety Division of the Development Services Department*) in the administration and implementation of the "*Building Process*". These Codes are known as:

- 1.) The City's Title 15 "Buildings and Construction" of the Calexico Municipal Code (CMC);
- 2.) The 2007 California Building Code (2007 CBC);
- 3.) The California Business and Professional Code (BPC).

These Codes assists our department in order to adequately implement the issuance of a building permit and from a legal perspective, who can apply and receive a building permit from the city. The Building Process is defined as all tasks associated with the Filing & Review of a Building Permit Application, Plan-Check construction drawings for Code compliance, Construction Site Inspections, and ultimately the issuance of a Certificate of Occupancy "Final".

Section 105.5 of the 2007 CBC states that a building permit is required if an owner or authorized agent intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by the building code.

Section(s) 7000 and 7031 of the BPC, states that each county or city which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition or repair of any building or structure shall also require that each applicant for such a permit file as a condition precedent to the issuance of a permit a statement which he has prepared and signed stating that the applicant is licensed under the provisions of this chapter (Contractor's License).

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**RE: BUILDING PERMIT CONTRACTOR REQUIREMENTS & OWNER-BUILDER
EXEMPTION**

Additionally, Section 7044 of the BPC (*known as the owner-builder exemption*) exempts property owners from the Contractors' License requirements as long as the property meets the following:

1. The work is performed prior to sale;
2. The homeowner has actually resided in the residence for the 12 months prior to completion of the work;
3. The homeowner has not availed himself or herself of the exemption in this subdivision on more than two structures more than once during any three-year period.

As can be interpreted, this exemption only qualifies homeowners... meaning that residential projects would be exempt from Contractor's requirements if a owner-builder permit is requested. All other types of construction would require a licensed contractor to pull the permit with property owner's consent.

To summarize the above, the city requires the following prior to the issuance of a building permit.

1. Completed City Application for a Building Permit;
2. Owner-Builder Verification & Acknowledgements (*Residential projects only*);
3. Declaration of Worker's Compensation Insurance;
4. Contractor's License for all non-exempt work (Commercial & Industrial construction);
5. Contractor's License Verification of active License from State Contractor's License Board.

Attached you will find an informational pamphlet developed as a handout to assist the public better understand the procedural requirements for a building permit. Effective January 1, 2009, cities will have to increase homeowner awareness over the worker's compensation and liability responsibilities they incur when a owner-builder permit is requested. Also attached is the new City Building Permit Application resulting from the new requirements.

Attachments: Contractor's License Required & Owner-Builder Exemption Pamphlet
New Building Permit Application
Notice to Property Owner
Owner's Acknowledgement and Verification of Information Form

**CITY OF CALEXICO
DEVELOPMENT SERVICES DEPARTMENT
BUILDING & SAFETY DIVISION**

*CONTRACTOR'S LICENSE REQUIRED &
OWNER BUILDER PERMIT EXEMPTIONS*

EXCERPTS FROM THE CALIFORNIA BUSINESS & PROFESSIONAL CODE

Contractor's License Requirement

7000. This chapter constitutes, and may be cited as, the Contractors' State License Law.

7031.5. Each county or city which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition or repair of any building or structure shall also require that each applicant for such a permit file as a condition precedent to the issuance of a permit a statement which he has prepared and signed stating that the applicant is licensed under the provisions of this chapter, giving the number of the license and stating that it is in full force and effect, or, if the applicant is exempt from the provisions of this chapter, the basis for the alleged exemption. Any violation of this section by any applicant for a permit shall be subject to a civil penalty of not more than five hundred dollar (\$500).

7032. Nothing in this chapter shall limit the power of a city or county to regulate the quality and character of installations made by contractors through a system of permits and inspections which are designed to secure compliance with and aid in the enforcement of applicable state and local building laws, or to enforce other local laws necessary for the protection of the public health and safety. Nothing in this chapter shall limit the power of a city or county to adopt any system of permits requiring submission to and approval by the city or county of plans and specifications for an installation prior to the commencement of construction of the installation. Cities or counties may direct complaints to the registrar against licensees based upon determinations by city or county enforcement officers of violations by such licensees of codes the enforcement of which is the responsibility of the complaining city or county. Such complaints shall to the extent determined to be necessary by the registrar be given priority in processing over other complaints. Nothing contained in this section shall be construed as authorizing a city or county to enact regulations relating to the qualifications necessary to engage in the business of contracting.

7033. Every city or city and county which requires the issuance of a business license as a condition precedent to engaging, within the city or city and county, in a business which is subject to regulation under this chapter, shall require that each licensee and each applicant for issuance or renewal of such license shall file, or have on file, with such city or city and county, a signed statement that such licensee or applicant is licensed under the provisions of this chapter and stating that the license is in full force and effect, or, if such licensee or applicant is exempt from the provisions of this chapter, he shall furnish proof of the facts which entitle him to such exemption.

7034.

- (a) No contractor who is required to be licensed under this chapter shall insert in any contract, or be a party, with a subcontractor who is licensed under this chapter to any contract which

contains, a provision, clause, covenant, or agreement which is void or unenforceable under Section 2782 of the Civil Code.

- (b) No contractor who is required to be licensed under this chapter shall require a waiver of lien rights from any subcontractor, employee, or supplier in violation of Section 3262 of the Civil Code.

Owner Builder Exemption

7044. This chapter does not apply to any of the following:

- (a) An owner of property, building or improving structures thereon, or appurtenances thereto, who does the work himself or herself or through his or her own employees with wages as their sole compensation, provided none of the structures, with or without the appurtenances thereto, are intended or offered for sale.
- (b) An owner of property, building or improving structures thereon, or appurtenances thereto, who contracts for such a project with a subcontractor or subcontractors licensed pursuant to this chapter.

However, this exemption shall apply to the construction of single-family residential structures only if four or fewer of these structures are intended or offered for sale in a calendar year. This limitation shall not apply if the owner of property contracts with a general contractor for the construction.

- (c) A homeowner improving his or her principal place of residence or appurtenances thereto provided that all of the following conditions exist:
 - (1) The work is performed prior to sale.
 - (2) The homeowner has actually resided in the residence for the 12 months prior to completion of the work.
 - (3) The homeowner has not availed himself or herself of the exemption in this subdivision on more than two structures more than once during any three-year period.

In all actions brought under this chapter, proof of the sale or offering for sale of any such structure by the owner-builder within one year after completion of same constitutes a rebuttable presumption affecting the burden of proof that such structure was undertaken for purposes of sale. Except as otherwise provided in this section, proof of the sale or offering for sale of five or more structures by the owner-builder within one year after completion constitutes a conclusive presumption that the structures were undertaken for purposes of sale.

In addition to all other remedies, any (1) licensed contractor, or association of contractors, (2) labor organization, (3) consumer affected by the violation, (4) district attorney, or (5) the Attorney General, shall be entitled to seek injunctive relief prohibiting any violation of this chapter by an owner-builder who is neither licensed nor exempted from licensure by this section or any other section according to the provisions specified in Section 7028.3 or Section 7028.4. The plaintiff in any such action shall not be required to prove irreparable injury and shall be entitled to attorneys'

fees and all costs incurred in the prosecution of such action, provided the plaintiff is the prevailing party.

The defendant in any such action, shall be entitled to attorneys' fees and all costs incurred in the defense against such action, provided the defendant is the prevailing party.

The registrar pursuant to Section 7090 may take disciplinary action as provided in this chapter against any person whenever the grounds or cause for disciplinary action arose upon any project undertaken by him or her as a licensee licensed pursuant to this chapter.

Any person, firm, or corporation which has violated Section 7028 by engaging in contracting work as an owner-builder without having a license or an exemption from licensure under this section or any other section shall not be entitled to become a licensee under this chapter for a period of one year following the violation.



608 Heber Avenue
Calexico, CA 92231
(760) 768-2105
Fax # (760) 357-7862
www.calexico.ca.gov
building@calexico.ca.gov

City of Calexico
Development Services
Building & Safety Division
Building Permit Application

Date Received: _____
Plan Check #: _____
Ministerial #: _____

PLEASE PRINT CLEARLY AND FILL IN ALL THAT APPLY

Project Address: _____

City: **Calexico**

Property Owner Information:

Name: _____
Address: _____
City/ State/ Zip _____
Phone () _____ Fax: () _____
Email Address: _____ Cell () _____
Jurisdiction may require property owner's identification

☐ Architect ☐ Designer ☐ Engineer
Name: _____
Address: _____
City/ State/ Zip _____
Phone () _____ Fax: () _____
Email Address: _____ Cell () _____
State License # (required) _____ City License # (required) _____

Project Contact Person: _____
Address: _____

Phone #: () _____ Fax #: () _____
Email Address: _____

☐ **Licensed Contractor's Information**

State License #: _____
Company Name: _____
Address: _____
City/ State/ Zip Code: _____

☐ **Owner-Builder (Complete Owner-Builder Declaration)**

City Business License #: _____
Phone #: () _____
Email Address: _____
Fax #: () _____

Licensed Contractors Declaration: *I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.*

Date: _____ **Contractor Signature:** _____

Owner-Builder Declaration (Residential Only):

I hereby affirm under penalty of perjury that I am exempt from the Contractor's State License Law for the (reason(s) indicated below by the checkmark(s) I have placed next to the applicable item(s) (Section 7031.5, Business and Professions Code: Any city or county that requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for the permit to file a signed statement that he or she is license pursuant to the provisions of the Contractor's State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt from licensure and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500.00).):

- ☐ I, as owner of the property, or my employees with wages as their sole compensation, will do () all of or portions of the work, and the structure is NOT intended or offered for sale (Section 7044, Business and Profession Code: The Contractor's State License Law does not apply to an owner of the property who, through employees' or persona effort, builds or improves the property, provided that the improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the Owner-Builder will have the burden of proving that it was not built or improved for the purpose of sale.).
- ☐ I, as owner of the property, am exclusively contracting with licensed Contractors to construct the project (Section 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who builds or improves thereon, and who contracts for the projects with a licensed Contractor pursuant to the Contractors' State License Law for the following reasons:

By my signature below I acknowledge that, except for my personal residence in which I must have resided for at least one year prior to completion of the improvements covered by this permit, I cannot legally sell a structure that I have built as an owner-builder if it has not been constructed in its entirety by licensed contractors. I under that a copy of the applicable law, Section 7044 of the Business and Professions Code, is available upon request when this application is submitted or the following Website:

<http://www.leginfo.ca.gov/calaw.html>

Date: _____ **Signature of Property Owner:** _____

WORKER'S COMPENSATION DECLARATION

Warning: Failure to secure worker's compensation coverage is unlawful, and shall subject an employer to criminal penalties and civil fines up to one hundred thousand dollars (\$100,000), in addition to the cost of compensation, damages as provided for in section 3706 of the Labor code, interest, and attorney's fees.

I hereby affirm under penalty of perjury one of the following declarations:

- ☐ I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier Name: _____ **Policy Number** _____ **Expiration Date** _____
Name of Agent _____ **Phone Number** _____

- ☐ I have and will maintain a certificate of consent to self-insure for workers' compensation, issued by the Director of Industrial Relations as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

- ☐ I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Signature of Applicant: _____ **Date:** _____

Application filing fee of \$135.0 NON REFUNDABLE is due and payable at time of submittal.
Cuota de \$135.00 NO REEMBOLSABLE sera necesaria a la hora de someter aplicacion y planos.

City of Calexico Building & Safety Division Building Permit Application (Page 2 of 2)

Please print clearly and fill in all that apply

CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.).

Lender's Name _____ Lender's Address _____

Type of Construction: _____ Occupancy: _____ Zone: _____ Fire Sprinklers? ☐ Yes ☐ No

Hazardous Materials ☐ Yes ☐ No Existing Use _____ Proposed Use: _____

Assessor's Parcel # _____ Lot # _____ Block # _____ Subdivision: _____

Description of Work: _____ Construction Valuation \$ _____

Please fill in and mark all that apply

☐ NON RESIDENTIAL ☐ RESIDENTIAL

☐ New Building ☐ Addition ☐ Alteration ☐ Demolition (Provide Recycle Plan) ☐ Sign ☐ Tenant Improvement

☐ Slab only ☐ Re-roof ☐ Swimming pool/spa ☐ Fence ☐ Carport ☐ Garage Enclosure

☐ Electrical ☐ Plumbing ☐ Mechanical ☐ Fire Repair ☐ Patio ☐ Other: _____

Description: _____

Description of Building: *(Please fill in and mark all that apply)*

☐ Office/ Bank ☐ Single Family ☐ Duplex ☐ Townhouse ☐ Condominium ☐ Apartment Bldg

☐ Hotel/Motel ☐ Industrial ☐ Service Station ☐ Medical Building ☐ Restaurant ☐ Church/Assembly

☐ Store ☐ Other: _____

Building Area _____ s.f. Building Height _____ s.f. Stories: _____

EXISTING: Floor Area: _____ s.f. Garage Area: _____ s.f. Other: _____ s.f. # of Units _____

PROPOSED: Floor Area: _____ s.f. Garage Area: _____ s.f. Other: _____ s.f. # of Units _____

of Bedrooms _____ # of Bathrooms _____ Total # of Rooms: _____

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction and hereby authorize representatives of this county to enter upon the above-mentioned property for inspection purposes. I declare under perjury that I am the property owner for the address listed above and I personally filled out the above information and certify its accuracy.

Date: _____

Property Owner's Signature: _____

Property Owner: (This applies only to residential construction)

1. Review Notice to Property Owner;
2. Read and initial each statement on the "Owner's Acknowledgement and Verification of Information" to signify you understand or verify this information (2 pages);

OFFICE USE ONLY

<u>Plan Check</u> <input type="checkbox"/> Yes \$ _____ <input type="checkbox"/> No Building Div. Date Paid	<input type="checkbox"/> Yes \$ _____ <input type="checkbox"/> No Planning Div. Date Paid	<input type="checkbox"/> Yes \$ _____ <input type="checkbox"/> No Fire Dept. Date Paid
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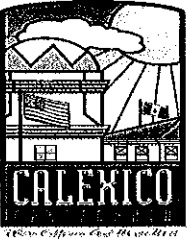
Route to:

☐ Planning ☐ Fire Dept. ☐ Utility ☐ Engineering ☐ Police ☐ Building ☐ Other: _____

Recycle Plan <input type="checkbox"/> Yes <input type="checkbox"/> No	Grading Plans <input type="checkbox"/> Yes <input type="checkbox"/> No	School Fees <input type="checkbox"/> Yes <input type="checkbox"/> No
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Special Inspection <input type="checkbox"/> Yes \$ 84.00 <input type="checkbox"/> No	Health Dept. Approval <input type="checkbox"/> Yes <input type="checkbox"/> No	Art In Lieu <input type="checkbox"/> Yes <input type="checkbox"/> No
--	--	--

Notice to Property Required <input type="checkbox"/> Yes <input type="checkbox"/> No	Owner's Acknowledgement and Verification of Information Required <input type="checkbox"/> Yes <input type="checkbox"/> No
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City of Calexico Development Services
Building & Safety Division
608 Heber Avenue, Calexico California 92250
(760) 768-2105 * Fax (760) 357-7862 * www.calexico.ca.gov

Notice to Property Owner

Dear Property Owner:

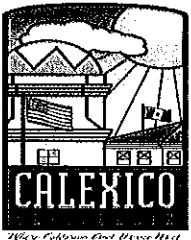
An application for a building permit has been submitted in your name listing yourself as the builder of the builder of the property improvements specified at _____.

We are providing you with an "Owner-Builder Acknowledgement and Information and Verification Form" to make you aware of your responsibilities and possible risk you may incur by having this permit issued in your name as the Owner-Builder.

We will not issued a building permit until you have read, initialed your understanding of each provision, signed, and returned this form to us at our official address indicated. An agent of the owner cannot execute this notice unless you, the property owner, obtain the prior approval of the permitting authority.

Sincerely,

City of Calexico
Development Services
Building Division



City of Calexico Development Services
Building & Safety Division
608 Heber Avenue, Calexico California 92250
(760) 768-2105 * Fax (760) 357-7862 * www.calexico.ca.gov

Owner's Acknowledgement and Verification of Information Form

Directions: Read and initial each statement below to signify you understand or verify this information.

____ 1. I understand a frequent practice of unlicensed persons is to have the property owner obtain an "Owner-Builder" building permit that erroneously implies that the property owner is providing his or her own labor and material personally. I, as an Owner-Builder, may be held liable and subject to serious financial risk for any injuries sustained by an unlicensed person and his or her employees while working on my property. My homeowner's insurance may not provide coverage for those injuries. I am willfully acting as an Owner-Builder and am aware of the limits of my insurance coverage for injuries to workers on my property.

____ 2. I understand building permits are not required to be signed by property owners unless they are responsible for the construction and are not hiring a licensed Contractor to assume this responsibility.

____ 3. I understand as an "Owner-Builder" I am the responsible party of record on the permit. I understand that I may protect myself from potential financial risk by hiring a licensed Contractor and having the permit filed in his or her name instead of my own.

____ 4. I understand Contractors are required by law to be licensed and bonded in California and to list their license numbers on permits and contracts.

____ 5. I understand if I employ or otherwise engage any persons, other than California licensed Contractors, and the total value of my construction is at least five hundred dollars (\$500), including labor and materials, I may be considered an "employer" under state and federal law.

____ 6. I understand if I am considered an "employer" under state and federal law, I must register with the state and federal government, withhold payroll taxes, provide workers' compensation disability insurance, and contribute to unemployment compensation for each "employee." I also understand my failure to abide by these laws may subject me to serious financial risk.

____ 7. I understand under California Contractors' State License Law, an Owner-Builder who builds single-family residential structures cannot legally build them with the intent to offer them for sale, unless *all* work is performed by licensed subcontractors and the number of structures does not exceed four within any calendar year, or all of the work is performed under contract with a licensed general building Contractor.

____ 8. I understand as an Owner-Builder if I sell the property for which this permit is issued, I may be held liable for any financial or personal injuries sustained by any subsequent owner(s) that result from any latent construction defects in the workmanship or materials.

____ 9. I understand I may obtain more information regarding my obligations as an "employer" from the Internal Revenue Service, the United States Small Business Administration, the California Department of Benefit Payments, and the California Division of Industrial Accidents. I also understand I may contact the California Contractors' State License Board (CSLB) at 1-800-321-CSLB (2752) or www.cslb.ca.gov for more information about licensed contractors.

____ 10. I am aware of and consent to an Owner-Builder building permit applied for in my name, and understand that I am the party legally and financially responsible for proposed construction activity at the following address:

____ 11. I agree that, as the party legally and financially responsible for this proposed construction activity, I will abide by all applicable laws and requirements that govern Owner-Builders as well as employers.

____ 12. I agree to notify the issuer of this form immediately of any additions, deletions, or changes to any of the information I have provided on this form. Licensed contractors are regulated by laws designed to protect the public. If you contract with someone who does not have a license, the Contractors' State License Board may be unable to assist you with any financial loss you may sustain as a result of a complaint. Your only remedy against unlicensed Contractors may be in civil court. It is also important for you to understand that if an unlicensed Contractor or employee of that individual or firm is injured while working on your property, you may be held liable for damages. If you obtain a permit as Owner-Builder and wish to hire Contractors, you will be responsible for verifying whether or not those Contractors are properly licensed and the status of their workers' compensation insurance coverage.

Before a building permit can be issued, this form must be completed and signed by the property owner and returned to the agency responsible for issuing the permit.

Note: A copy of the property owner's driver's license, form notarization, or other verification acceptable to the agency is required to be presented when the permit is issued to verify the property owner's signature.

Signature of property owner _____ Date: _____

OFFICE USE ONLY:

- | | |
|----|---|
| 1. | Advise property owner all liabilities will be on property owner (i.e. if anyone gets hurt the injury will be placed on the homeowner's liability insurance). |
| 2. | Advise property owner that the property owner must contact their home owners insurance and advise their insurance company that the property owner will be constructing on their property. |

Staff Member Signature and Date:
